



FY22 Community Project Funding (CPF) Environmental Guidance and Scenarios

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. The environmental review process is required for all HUD-assisted projects to ensure that the proposed project does not negatively impact the surrounding environment and that the property site itself will not have an adverse environmental or health effect on end users.

This guidance seeks to clarify the environmental review requirements for the Community Project Funding (CPF) Program for expenditure of funds for planning, administration, management, operations, and maintenance activities, as well as for development projects where construction contracts were entered into, or construction was started prior to the receipt of the Letter of Invitation (LOI) and/or completion of a satisfactory environmental review.

Table of Contents

Table of Contents 1

Contacts and Project-Specific Assistance..... 2

Legal Framework and Policy 2

 Grant Agreement 2

 Environmental Review, Federal Nexus and Choice-Limiting Actions 2

 Programmatic Environmental Review for Planning, Administration, Operations and Maintenance..... 3

 Work Under Contract..... 3

 Hard Costs 4

CPF Environmental Review Scenarios..... 5

 Questions and Answers/Project Scenarios 5

FY22 CPF Process Flow 8

Resources 8

Environmental Review Ask-A-Question (AAQ) Guide..... 9



Contacts and Project-Specific Assistance

For environmental review purposes, CPF Grantees should contact their [CPF Grant Officers](#) and [Regional Environmental Officers \(REOs\)](#). The CPF Grant Officers and REOs can assist in specific project questions and environmental review requirements for individual projects.

HUD will also be providing trainings on environmental review. HUD has also initiated a technical assistance [“Ask A Question” \(AAQ\) Desk](#) for environmental review to support grantees in navigating the environmental review requirements. You can access the AAQ desk here:
<https://www.hudexchange.info/program-support/my-question/>.

There is a short guide for requesting support through the AAQ desk at the end of this document.

Legal Framework and Policy

Grant Agreement

The first action that grantees should take is to submit your project narrative and project budget to your Grant Officer per the instructions provided in the Grant Guide. Submitting these materials initiates the processing of the Grant Agreement. The Grant Agreement is the legally binding document that outlines requirements and incorporates assurances and certifications for your project. The Grant Agreement must be signed by HUD prior to the grantee drawing funds for reimbursement.

Environmental Review, Federal Nexus and Choice-Limiting Actions

HUD or the RE will be required to complete an environmental review of ALL work that took place or is proposed to take place following receipt of the Letter of Invitation (Federal Nexus). A “Federal Nexus” is defined as the event that, by its occurrence, triggers the requirements for federal environmental review under a host of laws, regulations, and Executive Orders.

The date of receipt of the Letter of Invitation (LOI) is the Federal Nexus for the CPF program. For FY2022 CPF grantees, the date of receipt of the Letter of Invitation (Federal Nexus) was sometime between July 18-20, 2022.

After the Federal Nexus, Grantees are prohibited from taking new choice-limiting actions related to hard costs, including commitment or expenditure of HUD and non-HUD funds, until a satisfactory environmental review has been completed for the aggregated project. HUD’s aggregation requirements under 24 CFR 58.32 state that environmental reviews must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions. A *satisfactory environmental review* must include analysis of the applicable environmental laws and authorities, a determination that the project activities will not result in environmental harm that cannot be mitigated, consultation with federal/state agencies in a manner that allows for mitigation measures/conditions to be implemented, and a Request for Release of Funds and Certification (RROF/C) for the project that has been approved by the HUD CPD Field Office Director, if required. Grantees are responsible for implementing mitigation requirements in coordination with the Responsible Entity. Most soft costs are covered by [HUD’s Part 50 nationwide environmental review for CPF soft costs](#) which can be incurred any time after the date of legislative enactment (March 15, 2022) and can be drawn down for reimbursement after the Grant Agreement for the project has been executed.



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A choice limiting action is any activity that a grantee undertakes, including committing or expending HUD or non-HUD funds, that reduces or eliminates a grantee's opportunity to choose project alternatives that would avoid or minimize environmental impacts or enhance the quality of the human environment.

Examples of Choice Limiting Actions include acquisition, leasing, rehabilitation, demolition, new construction and ground disturbance work such as clearing, grading or grubbing. HUD's prohibition on choice limiting actions at 24 CFR 58.22 is derived from the regulations of the Council on Environmental Quality implementing the National Environmental Policy Act of 1969 (NEPA), which state that (with certain exceptions), "until an agency issues a finding of no significant impact, as provided in § 1501.6 of this chapter, or record of decision, as provided in § 1505.2 of this chapter, no action concerning the proposal may be taken that would: (1) Have an adverse environmental impact; or (2) Limit the choice of reasonable alternatives." 40 CFR § 1506.1.

In addition, the related environmental laws and authorities with which HUD must comply contain their own procedural requirements which have the effect of limiting actions that may be taken before approval of the environmental review. For example, under the National Historic Preservation Act of 1966 regulations (54 U.S.C. 300101, et seq.; 36 CFR Part 800; see 24 CFR § 50.4(a)(1)), in the early stages of project planning, the agency official must determine whether the proposed federal action is an undertaking as defined by the regulations. The agency must then determine whether it is a type of activity that has the potential to cause effects on historic properties, and if so, seek ways to avoid, minimize or mitigate any adverse effects on the property. Similarly, under Section 7 of the Endangered Species Act (16 U.S.C. 1536), the agency must ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of a listed species in the wild or destroy or adversely modify critical habitat.

Taking new choice-limiting actions is not permitted after the receipt of the Letter of Invitation (Federal Nexus) until a satisfactory environmental review process has been completed for the aggregated project. In addition, HUD will not be able to fund a project where work that occurred after the receipt of the Letter of Invitation (Federal Nexus) has resulted in environmental harm or where environmental compliance with one or more of the laws and authorities cannot be achieved.

Programmatic Environmental Review for Planning, Administration, Operations and Maintenance

HUD has completed a nationwide [Part 50 Programmatic Environmental Review covering CPF soft costs](#) for planning, administration, operations, and maintenance activities under the CPF program. Following execution of the Grant Agreement, grantees may request HUD funds for planning, administration, operations and costs categorized as maintenance activities under [CPD Notice 16-02: Guidance for Categorizing an Activity for Maintenance](#). Grantees can incur reimbursable soft costs any time after the date of enactment (March 15, 2022) and can draw down those funds after the execution of the Grant Agreement for the project.

Work Under Contract

Grantees can proceed with work covered by contracts that predate the date of receipt of the Letter of Invitation (identified by HUD as the Federal Nexus triggering federal environmental and historic preservation laws and regulations) at your own risk.



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WASHINGTON, DC 20410-7000

If your organization is under a legally binding construction contract prior to receiving the Letter of Invitation (Federal Nexus), work funded by non-federal funds may proceed to the extent practical and to the extent permitted in accordance with the previously executed contract. After receiving the Letter of Invitation (Federal Nexus), grantees may not enter into additional construction contracts or make other choice-limiting commitments or actions, including commitments of HUD or non-HUD funds to the project, until a satisfactory environmental review by a Responsible Entity (RE) under 24 CFR Part 58 is completed and a Request for Release of Funds and Certification (RROF/C) is approved by the HUD CPD Field Office Director via certification of the 7015.16 Authority to Use Grant Funds in HEROS, if applicable; or an environmental review by HUD under 24 CFR Part 50 is completed.

Hard Costs

HUD or the RE is required to complete a satisfactory environmental review of ALL work that took place or is proposed to take place following the receipt of the Letter of Invitation (Federal Nexus). Grantees can undertake project activities covered under contracts entered into prior to the Federal Nexus and incur reimbursable hard costs related to construction and ground-breaking activities occurring any time after receipt of the Letter of Invitation (Federal Nexus) at their own risk. If work that has taken place after receipt of the Letter of Invitation (Federal Nexus) causes unmitigable environmental harm, is prohibited under environmental laws or HUD's environmental regulations (e.g., damaging endangered species habitat, impacting a structure eligible for listing on the National Register of Historic Places, or work within a regulatory floodway), or precludes completion of federal consultation requirements, those project activities cannot be funded.

If a project is unable to satisfactorily complete an environmental review, HUD can potentially fund other project activities that do not require aggregation with the work started after the Federal Nexus, such as operations and maintenance or program services. Contact your [CPF Grant Officer](#) to discuss additional project activities that may be able to be funded on an as needed basis.

Grant funds can be drawn down for reimbursement of eligible costs after execution of the Grant Agreement for the project.



CPF Environmental Review Scenarios

The below scenarios offer consideration of some common scenarios received from grantees to date about the status of their projects and next steps.

In order for the Congressional Grants Division and the Office of Environment and Energy to best assist you in determining your next steps, you should submit your project narrative and budget to your Grant Officer within HUD's Congressional Grants Division. This will enable HUD to 1) initiate the Grant Agreement and 2) work with grantees to determine the level of environmental review necessary for the project.

Questions and Answers/Project Scenarios

1. Can I use my planning and administration funds prior to completion of my environmental review?

ANSWER:

- Prior to the completion of the aggregated environmental review for the project, grantees can incur eligible reimbursable soft costs for planning and administration any time after the date of enactment (March 15, 2022).
- A list of covered CPF soft costs can be found in [HUD's Part 50 Programmatic Environmental Review for CPF Soft Costs](#) and can be drawn down for reimbursement after execution of the Grant Agreement.

2. Can I use my planning and administration funds to cover the costs to complete an environmental review?

ANSWER:

- Yes. The costs to complete an environmental review are eligible under the planning, administration, management, and maintenance activities covered by [HUD's programmatic environmental review](#) discussed in Scenario 1 above.
- Again, grantees may incur reimbursable soft costs any time after the date of enactment (March 15, 2022), but in order to draw down funds for reimbursement the grantee must have a fully executed Grant Agreement.

3. I was awarded a grant that is for a 100% planning activity. Do I have to complete an environmental review?

ANSWER:

- Based on your project narrative, your Grant Officer will confirm that your project is for planning only activities.
- As mentioned above, HUD has completed a programmatic environmental review for all planning activities within the Community Project Funding portfolio.
- Thus, if you have a planning only grant, you do not have to conduct a new environmental review because the review has already been completed by HUD.
- You must have a fully executed Grant Agreement to draw down HUD funds for reimbursement of eligible activities.



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WASHINGTON, DC 20410-7000

4. I completed my project before receiving a signed grant agreement from HUD. Can I be reimbursed?

ANSWER:

- Some activities may be reimbursable depending on their timing and nature.
- Soft costs covered by [HUD's programmatic review](#) that were incurred after the date of enactment (March 15, 2022) can be reimbursed after the execution of the Grant Agreement.
- Eligible hard costs incurred after receipt of the Letter of Invitation (Federal Nexus) are reimbursable after the execution of the Grant Agreement, with the completion of a satisfactory environmental review covering the aggregated project. See Federal Nexus and Choice-Limiting Actions section above for more information on HUD's project aggregation principles and what is included in a satisfactory environmental review process.
- For activities that fall outside of the scope of eligibility for reimbursement, HUD may be able to fund a related activity associated with the completed project. HUD's [CPF Grant Officers](#) will work with you to determine if there are other elements of the CPF-referenced project that can be funded in keeping with the intent of Congress.

5. I have started construction on my project with non-HUD funds, but plan to use HUD funds for a portion of my project:

a. Do I have to stop work on the project if the work was under contract prior to the Letter of Invitation (Federal Nexus)?

ANSWER:

- HUD is not directing grantees to stop construction work in instances where a construction contract was entered into prior to receipt of the Letter of Invitation (Federal Nexus). In such cases, work funded by non-federal funds may proceed to the extent practical, and to the extent permitted in accordance with the previously executed contract. Grantees may not enter into additional construction contracts or take other choice-limiting commitments or actions, including commitments of HUD or additional non-HUD funds to the project after receipt of the Letter of Invitation (Federal Nexus), without the completion of a satisfactory environmental review covering the aggregated project. An environmental review must be completed before HUD funds and new commitments of non-HUD funds can be used on a project.
- However, HUD does recommend that grantees stop work after receipt of the Letter of Invitation (Federal Nexus) as best practice. If any work conducted results in environmental harm that cannot be mitigated (e.g., damaging endangered species habitat, impacting a structure eligible for listing on the National Register of Historic Places), or precludes completion of federal consultation requirements, those project activities cannot be funded. For these reasons, continuing with work has risk of ineligibility for funding.
 - For example, Section 110(k) of the National Historic Preservation Act (NHPA) prohibits Federal agencies from granting assistance to applicants who intentionally adversely affect a historic property to avoid the requirements of Section 106. State Historic Preservation Offices (SHPOs) may refuse to consult on a project if they believe that a structure was demolished with the intent to avoid a Section 106 historic review, also known as "Anticipatory Demolition". The



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WASHINGTON, DC 20410-7000

Advisory Council on Historic Preservation (ACHP) guidance states that applicants and Federal agencies should avoid any commitments or activities that harm historic properties prior to completing the Section 106 process. Applicants who violate Section 110(k) may have their funding revoked and be unable to be reimbursed for activities completed upfront.

b. Do I have to stop work on a project if there isn't a contract in place?

ANSWER:

- If you are using your own workforce to do the work and can stop work – i.e., there is no preexisting legal obligation with another party to continue the construction activities – you must pause construction (where practical) until the environmental review is completed.

c. How is the environmental review conducted when the project is underway under an existing contract?

ANSWER:

- Upon receipt of the Letter of Invitation (Federal Nexus), federal compliance requirements apply to the project and HUD funds cannot be expended on work that results in environmental harm that cannot be mitigated. A satisfactory environmental review is necessary to determine the environmental impacts of the project.
- While CPF funds can be used for soft costs incurred after enactment (March 15, 2022) and hard costs incurred after receipt of the Letter of Invitation (Federal Nexus), an environmental review is required for activities taking place after receipt of the LOI (Federal Nexus). However, the project scope may require aggregation with previously undertaken project activities under HUD's aggregation regulations at 24 CFR 58.32.
- Analysis with the environmental laws and authorities must be conducted and determine that there hasn't been environmental harm that cannot be mitigated, and that consultation with federal/state agencies is conducted in a manner that allows for mitigation measures/conditions to be implemented.

Note: If a satisfactory environmental review cannot be completed for any reason, work with your Grant Officer and Regional Environmental Officer to determine next steps.

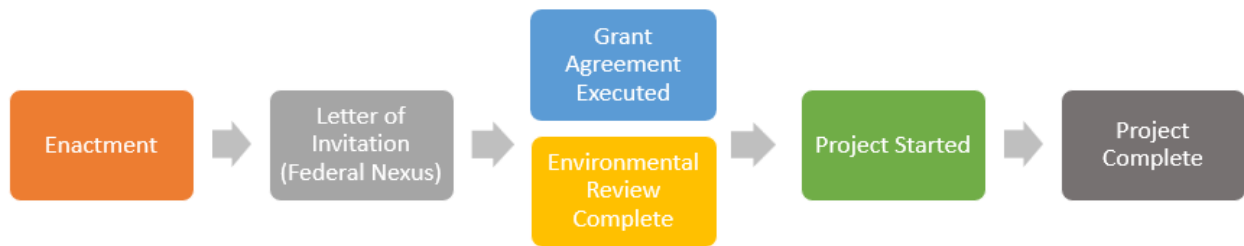
6. I have a completed environmental review, but I do not have an executed Grant Agreement. Can I start using HUD funds?

ANSWER:

- Soft costs covered by HUD's programmatic review for CPF soft costs can be incurred any time after the date of enactment (March 15, 2022) and can be drawn down for reimbursement after the execution of the Grant Agreement.
- Eligible hard costs can be incurred after receipt of the Letter of Invitation (Federal Nexus) and can be drawn down for reimbursement after the execution of the Grant Agreement and the completion of a satisfactory environmental review for the aggregated project.



FY22 CPF Process Flow



Allowed to incur reimbursable soft costs (*see [Nationwide Part 50 for FY22 CPF Soft Costs](#)*)

Allowed to incur ongoing eligible hard costs if covered by a satisfactory environmental review

Begin reimbursement of soft costs

Allowed to undertake all eligible project activities and reimburse all remaining project funds

Resources

Congressional Appropriations Bill:
[FY22 Consolidated Appropriations Act](#)

CPF Program Resources:
[CPF Landing Page](#)
[CPF Grant Officer Portfolio Assignments](#)
[FY2022 Community Project Funding Grant Guide: Version 2.0](#)
[FY22 CPF Cost Eligibility Chart](#)

CPF Environmental Review Resources:
[HUD Environmental Contacts](#)
[Guidance for Documenting the Environmental Review Record for CPF Grants](#)
[Request for Release of Funds \(RROF\) Point-of-Contact for CPF Grants](#)
[Ask A Question \(AAQ\) Help Desk for CPF](#)
[Sample MOA between a Responsible Entity and CPF Non-profit Grantee](#)

General Environmental Review Resources:
[24 CFR Part 58: Procedures for Entities Assuming HUD Environmental Responsibilities](#)
[HEROS - HUD Environmental Review Online System](#)
[HUD Environmental Review Landing Page](#)

HUD's Nationwide Part 50 Programmatic Environmental Review for CPF Soft Costs:
[FY22 Part 50 CPF-Soft-Costs-Nationwide-Programmatic ERR](#)



Environmental Review Ask-A-Question (AAQ) Guide

We are excited to announce that the Ask-A-Question tool on HUD Exchange has been expanded to provide technical assistance for Community Project Funding (CPF). You can access the website by going to <https://www.hudexchange.info/program-support/my-question/>

The first step in submitting a question is to fill in the Personal Information fields. All the fields are required.

Step 1 of 2 1 of 2

Personal Information* Required fields

* First Name

* Last Name

* State

Select ▼

* City/Town

* County

Select ▼

* Phone Number

Format: xxx-xxx-xxxx x____ (Extension Optional)

* Email Address

* Confirm Email

Once you have entered your personal information, please select I am a... "HUD Grantee." If your organization or community is listed, please select the correct grantee name.

* I am a

HUD Grantee ▼

* Which Grantee are you?

Select ▼

Step 2 >

If you do not find your entity's name, select "Other – Please Specify" in the I am box and you will be able to provide the entity name in the Other box.



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* I am a

Other - Please Specify

* Other

Step 2 >

Once you have identified yourself, select the button for Step 2.

You will be taken to Step 2 of 2 after a prompt to review your personal information. Please select "CPF: Community Project Fund" in the My question is related to... box. Then add a subject line, enter your question, and upload any applicable documents. Submit your question.